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1614



CASE 4-30652-1/30889

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF
ALLGEIER ET AL.

Art Unit: 1614

Examiner: C. Delacroix-Muirheid

APPLICATION NO: 09/821,416

FILED: MARCH 29, 2001

FOR: MGLUR5 ANTAGONISTS FOR THE TREATMENT OF PAIN AND ANXIETY

Assistant Commissioner for Patents
Washington, D.C. 20231

ELECTION OF SPECIES

Sir:

This is in response to the Official Action dated December 3, 2002.

Claims 31-34 were presented for examination, and Claims 31-34 are still the only claims present in the case.

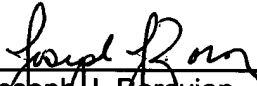
The Examiner requires the election of a single disclosed species. In accordance therewith, Applicants respectfully elect the first compound of Claim 34. Claims 31-33 read on the elected species.

Assuming that the election of species requirement was made in accordance with 37 C.F.R. §1.146, Applicants' election of the first compound of Claim 34 is made without traverse. However, as set forth in M.P.E.P. 809.02(c), "[a]n examiner's action subsequent to an election of species should include a complete action on the merits of all claims readable on the elected species." If, however, the election of species requirement was not made pursuant to 37 C.F.R. §1.146, the aforementioned election is made with traverse on the grounds that there is no basis for the requirement in the statute or the rules.

In view of the foregoing, an action on the merits of all of the claims which read on the elected compound, viz., Claims 31-33 (and, of course Claim 34) is respectfully requested.

Respectfully submitted,

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Encl.: Postcard

Date: December 19, 2002